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JIMMY AVILA,		:	
	Plaintiff,	:	<u>ORDER TO SHOW CAUSE</u>
		:	
-v.-		:	18 Civ. 7851 (LGS) (GWG)
		:	
1212 GRANT REALTY, LLC, et al.,		:	
	Defendants.	:	
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On November 18, 2019, this Court issued an Order requiring the parties or their counsel to appear for a conference pursuant to Rule 16 of the Federal Rules of Civil Procedure on December 5, 2019 at 10:15 a.m. See Docket # 85. On the morning of December 5, 2019, at approximately 9:15 a.m., the Court’s Deputy Clerk received a telephone call from an individual who stated she worked for defendant 1212 Grant Realty, LLC, and that defense counsel Todd Rothenberg would not be appearing at the scheduled conference. The Court subsequently received a fax from 1212 Grant Realty, LLC, which stated that 1212 Grant Realty, LLC was “under the assumption that this notice<sup>1</sup> was served to our attorney and he would represent us.” The letter added that Mr. Rothenberg had been “apparently . . . unavailable to respond to [1212 Grant Realty, LLC’s] calls” and that 1212 Grant Realty, LLC had “reached out to several other law firms that [they had] dealt with in the past to fill in on this matter.”

The Courtroom was open from 10:15 a.m. until 10:30 a.m. Neither Mr. Rothenberg nor Mr. Avila appeared as of that time. The Court was informed by the Pro Se Intake Unit at approximately 11:00 a.m. that Mr. Avila had arrived at the courthouse. The conference could not proceed, however, in Mr. Rothenberg's absence.

It thus appears that both parties have violated the Court's November 18, 2019, order. Mr. Rothenberg's violation is far more serious, however, because he plainly made no attempt to appear at the conference, even though it seems clear that he was notified of the required

<sup>1</sup> The “notice” referred to is not specified.

appearance given that his client was aware of the date of the conference. In any event, notification was made through the ECF system.


Accordingly, it is hereby ORDERED as follows:

(1) Mr. Avila is directed to explain to the Court why he arrived late. Mr. Avila shall file a letter on or before December 19, 2019 with this explanation.

(2) Mr. Rothenberg is directed to file an affidavit explaining his conduct and shall also file a memorandum of law or letter showing cause why he should not be sanctioned pursuant to Fed. R. Civ. P. 16(f)(1)(A). These filings shall be made on or before December 12, 2019. The Court notes that Mr. Rothenberg may be relieved as counsel only upon order of the Court. See Local Civil Rule 1.4 (“An attorney who has appeared as attorney of record for a party may be relieved or displaced only by order of the Court and may not withdraw from a case without leave of the Court granted by order”). If he intends to make such a motion, he shall file it on or before December 12, 2019, as well, and in compliance with Local Civil Rule 1.4.

SO ORDERED.

Dated: December 5, 2019  
New York, New York

  
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GABRIEL W. CORENSTEIN  
United States Magistrate Judge

Copies sent to:

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